



# *Licensing Board*

April 27, 2009 - 7:00 p.m. – **Agenda**  
133 William Street, Room 314

View Minutes

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**REQUESTED:** Steven A. Beauregard, Chairman  
Ronald E. Frenette, Commissioner  
Atty. John A. Markey, Asst. City Solicitor  
Capt. Steven Vicente, Liaison to the Licensing Board  
Nick Nanopoulos, Director

## **APPROVALS RECEIVED FROM THE ALCOHOLIC BEVERAGES CONTROL COMMISSION**

### **Addition of d/b/a - Tr. # 044 - (Plot # 93--35)**

Marisqueira Madeira, Inc., Carlos Madeira, President, is requesting approval of Cotali Mar Restaurante as its d/b/a with premises remaining the same at 1174 Acushnet Avenue.

**Approved By ABCC – 04/15/09**

### **1. APPLICATION, (No Representation Needed)**

Fishermen's Tribute Fund, Jeff Costa, Representative who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a 'Fundraiser/Fishermen's Tribute Fund' to be held at the **New Bedford Whaling Museum**, located at **18 Johnny Cake Hill**; and to be held on **Friday, April 17, 2009, from 6:00 p.m. until 8:30 p.m.**

### **2. APPLICATION, (No Representation Needed)**

Community Boating Center, Mary Ellen DeFrias, Representative who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for their 'Annual Fundraiser' to be held in **Fort Taber – Under a Tent**; and to be held on **Saturday, May 16, 2009, from 6:00 p.m. until 11:00 p.m.**

### **3. APPLICATION, (No Representation Needed)**

Institute for Developmental Disabilities, Inc., Dennis Farias, Representative who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a 'Fundraiser/Wine Tasting' to be held at the **New Bedford Whaling Museum**, located at **18 Johnny Cake Hill**; and to be held on **Thursday, June 4, 2009, from 7:00 p.m. until 10:00 p.m.**

### **4. APPLICATION, (No Representation Needed)**

Cardoza's Wine & Spirits, Inc., Cheri Moorhouse, Representative requesting approval of an application for a **Special One-Day Wine & Malt Beverages License** for a 'Polish Festival/Our Lady of Perpetual Help' to be held **on the street at 235 North Front Street**; and to be held on **Saturday, June 20, 2009 from 12:00 p.m. until 8:30 p.m., and Sunday, June 21, 2009 from 12:00 p.m. until 5:00 p.m.**

### **5. APPLICATION, Trans. # 202 – (Plot # 92--267)**

Veterans of Foreign Wars of the United States, Inc. (Andrew Dahill Post #1531), 477 Park Street, who is requesting the approval of **Patrick M. Flinn**, who resides at **29 Seventh Street, New Bedford, MA**, as their new **Manager**.

### **6. APPLICATION, Tr. #180 - (Plot # 132--614)**

Jin's Mini-Mart, Inc. d/b/a Muldoon's Mini-Mart, Jin Hee Lee, President, who is petitioning to **transfer a Retail Package Store Wine & Malt Only Beverages License** to **Shree Riya, Inc. d/b/a Muldoon's Mini-Mart**, Arunkumar Patel is President, Co Director, and Co-Share Holder (500); and **Manishkumar A. Patel** is Treasurer, Clerk, Co-Director, Co-Shareholder (500), and the **Proposed Manager**; along with a request to Pledge the License & Inventory to Bank 5 (first) and Jin's Mini-Mart, Inc. (subordinate to bank) as security to authorize and execute a **promissory note** in the amount of **\$540,000.00 to Bank 5, and to Jin's Mini-Mart, Inc. for the inventory(\$70,000.00)**, pursuant to Massachusetts General

Laws Ch.138 s.23. Premises will remain the same at **1411 Phillips Road.**

Final approval will require a **‘Change of Tenant’** from the Building Department and a **‘Food Permit’** from the Health Department.

**Application has been advertised.**

**7. Meeting: MMRB Corp. Inc.**

**d/b/a Costa Sunoco Mini-Mart**

**Badiru Jaman, Manager**

**397 Sawyer Street**

Your presence is **required** at a meeting to be held in this office to determine as to what your status is as the ‘Manager of Record’ for the above stated premises, based on your failure to appear as requested at two prior violation hearings; and to answer any and all questions regarding your current involvement and responsibilities regarding the day to day operation of Costa’s Sunoco Mini Mart.

Failure to appear at this hearing as requested will result in the **immediate suspension** of your Retail Package Store Wine & Malt license, until such time as the Board is satisfied that you as Manager are in control and operating the licensed premises; or until such time as a new manager is approved by this Board and the ABCC, as is required by law.

**8. APPLICATION, Trans. # 202 – (Plot # 92--267)**

**MMRB Corporation d/b/a Costa’s Sunoco Mini-Mart, 397 Sawyer Street, who is requesting the approval of Golam B. Chowdhury, who resides at 2221 Purchase Street, New Bedford, MA, as their new Manager.**

**Tabled at 3/23/09 Meeting Until 04/27/09 Meeting**

**9. APPLICATION,**

**Christopher L. Souza, who resides at 6 Cedar Lane, Westport, MA who is requesting approval of his application for a Motor Vehicle Class II (Used Car Dealer) License for Southeast Motors, with premises situated at 297 Belleville Road.**

**Note: Site was previously licensed to Paulo Silva & Christina Teixeira d/b/a Southeast Motors, which was not renewed for 2009; and was previously approved for the display of Twelve (12) cars by Inspectional Services.**

Approval of the Motor Vehicle Class II License will require a **‘Certificate of Inspection’** from the **Office of Inspectional Services**, a **\$25,000.00 Bond**, a **Notarized Letter** stating where repairs will be done, and a **‘Business Certificate’** from the **Office of the City Clerk.**

**Present: No one appeared on behalf of the applicant.**

Applicant did not appear as requested, Mr. Nanopoulos informed the Board that there was an outstanding CORI issue that was being addressed by the applicant and his client, and that it may not be resolved until April.

**VOTED:** Commissioner Frenette made a motion to table the matter until the Board’s March 23<sup>rd</sup> meeting – **Unanimous**

**10. APPLICATION, (No Representation Needed)**

**Jose C. Gomes, who resides at 42 Gellette Road, Fairhaven, MA who is requesting approval of his application for a Motor Vehicle Class II (Used Car Dealer) License for Jose C. Gomes, Inc. d/b/a Joe’s Automotive, with premises situated at 191 Beacon Street.**

**Note: Site was previously licensed to the applicant who did not renew his license in 2008, and was previously approved for the display of Fifty (50) cars by Inspectional Services.**

Approval of the Motor Vehicle Class II License will require a **‘Certificate of Inspection’** from the **Office of Inspectional Services**, a **\$25,000.00 Bond**, a **Notarized Letter** stating where repairs will be done, and a **‘Business Certificate’** from the **Office of the City Clerk.**

**Tabled At 04/13/09 Meeting**

**11. Hearing: RR Petroleum, Inc. d/b/a**

**Food Mart (Lukoil) - 2<sup>nd</sup> Offense**

**Nayana Patel, Manager**

**30 Rockdale Avenue**

**Your presence** and that of **Rasida Ajmeri, Clerk** is **required** at a hearing to be held in this office, **City Hall, Room 314, on Monday, April 27, 2009 at 7:00 p.m.,** to determine whether you have violated certain provisions of Massachusetts General Laws, the Alcoholic Beverages Control Commission (ABCC) Regulations, and Licensing Board Rules and Regulations as reported by City of New Bedford Police Department Incident Report as follows:

**Violations: Massachusetts General Laws Chapter 138, sections 34, 34b, 34c-**

It is illegal for anyone under the age of twenty-one years to purchase or be in possession of an alcoholic beverage; identification must be checked on the day of service.

**Alcoholic Beverages Control Commission Regulation 204 CMR 2.05: (2)-**

States no licensee shall permit any illegality to occur on the licensed premises. The licensee is responsible, whether present or not, for ensuring that no disorder, disturbance, or illegality takes place in or on a licensed premises.

**Licensing Board Regulation No. 5-**

Sale of alcoholic beverages, wine and malt beverages to persons under twenty-one years of age is prohibited.

**Summary of Incident**

Police Department Incident Report states that while conducting undercover stings of several liquor establishments in the New Bedford area, an underage Police Cadet in an undercover capacity posing as a customer, purchased alcohol from a female clerk later identified as **Rasida Ajmeri**, who was later informed that she allegedly just sold alcohol to a minor.

**Date and time of alleged violations: Friday, March 13, 2009 @ approximately 6:38 p.m. - #2009 – 00176/13**

Please be advised, the failure of **Nayana Patel, Manager** to appear at this meeting will result in **immediate suspension** of your liquor license until this matter is resolved.

**Minutes of 04/13/09 Meeting**

On a motion from Commissioner Frenette, the Board voted unanimously to table the matter to the next meeting, based on Ms. Patel's failure to appear as requested (2<sup>nd</sup> Time), and to notify Ms. Patel once again that she is required to appear.

**12. Meeting: Dia De Portugal Committee**

**Carlos Pinhancos, President**

Your presence is requested at a meeting to discuss any concerns the Board may have **regarding security and enforcement of Licensing Board & ABCC Rules & Regulations** concerning the 'Day of Portugal' weekend, the meeting will include Chief Teachman and Lt. Sylvia, Liaison to the Dia De Portugal Committee. Also, as agreed to last year, we respectfully request you submit a 'Security Plan', along with a 'Vendor Map' to this office **by April 20, 2009**, which would address the following issues that were discussed, following last year's event:

- Alcohol Service - # of Drinks/Cups
- I.D. Checks and the Issuance of Wristbands
- Flow and Control of Alcohol
- # Of Police Officers
- Hours of Operation - Starting Times/Closing Times/Last Call/etc.

With an eye to this year's event, this Board is looking forward to working with you and your committee, and we would hope you would continue the outstanding plan that you implemented last year, and that you explore ways to improve on that plan, with regard to I. D. check's; and to address the issue of how the I.D. bracelets are issued.

As you well know, this was the one area where the Board expressed some concern at our review meeting held on July 28, 2008 and recommended that the current system that is in place regarding I.D. Checks and the issuance of wristbands be reviewed; and that you explore whether or not it would be feasible for your committee to either buy your own machines or meet with the Feast of the Blessed Sacrament Committee to see if they would consider renting their machines to you, so that your committee can conduct the I.D. Checks and issue the wristbands yourselves; or if you wish to keep each vendor responsible for the bracelets they issue, it may be that each vendor is responsible for renting a machine themselves as part of the contract that they sign to be included in the event.

Also, please be advised that this year's deadline for each individual to file an application and submit the licensing fee of \$300.00 for a Special Three - Day Liquor license for this year's event, which is scheduled for Fri. – Sun. – June 12<sup>th</sup> , 13<sup>th</sup> & 14<sup>th</sup>, is **Monday, May 4<sup>th</sup>**.

The requirements will be the same as last year, which included that everyone will be required to apply for an **All-Alcoholic license for each of the days (3) for a total fee of \$300.00 (payment due w/application)**; also, so that there is uniformity among all participants, each license will be issued with the same hours and restrictions as follows:

- **FRIDAY, JUNE 12<sup>th</sup> – 5:00 P.M. UNTIL 11:45 p.m.**
- **SATURDAY, JUNE 13<sup>th</sup> – 12:00 P.M. UNTIL 11:45 p.m.**
- **SUNDAY, JUNE 14<sup>th</sup> – 12:00 P.M. UNTIL 10:00 p.m.**

**NOTE:** Only holders of Special One Day Licenses are allowed to serve alcohol in plastic cups from either booths set up along Acushnet Avenue or from inside licensed premises, *which must be consumed within the confined area of the festival.*

**ALL DRINKS ON THE STREET MUST BE IN PLASTIC CUPS.**

**13. Meeting: Cape Verdean Recognition Day Parade Participants**

The New Bedford Licensing Board has called for a meeting to be held in this office to discuss any concerns the Board may have regarding security and enforcement of Licensing Board & ABCC Rules & Regulations, concerning the **Cape Verdean Day Parade on Saturday July 4, 2009.**

As we have done with other events, we are requesting that you appear before the Board to discuss this year's event, specifically issues with regards to the hours of operation, security, and the control of alcohol into the surrounding area. We fully anticipate that you will work with us to help ensure that the Cape Verdean Recognition Day Parade, which is very important to the Cape Verdean Community, the City of New Bedford, and to all that travel from afar to enjoy and partake in the celebration of the Cape Verdean heritage, remains a safe and enjoyable event for all.

The meeting will include Chief Teachman, Capt. Steven Vicente, Liaison to the Licensing Board and Lt. Scott Sylvia, Detail Officer, along with representatives of the following organizations, which have been requested to attend:

- **Cape Verdean Recognition Day Committee**
- **Merchant Mariner's Social Club, Inc.**
- **The Bisca Tournament Club, Inc.**
- **The New Cape Verdean Ultramarine Band Club, Inc.**
- **Verdean Veterans' Memorial Foundation, Inc.**

**Action Taken (07/28/08 Meeting):**

Upon listening to those present, Chairman Beauregard summarized his concerns by stating, what is being asked of this event, is the same as what has been asked of other events throughout the city, as a result of those events growing to a point where certain controls had to be put in place to control the flow of alcohol, and as events grow, this becomes an issue that must be addressed.

Commissioner Frenette closed the meeting by instructing the three 'Clubs' present and the Verdean Vets, depending on their situation, and anyone else who would be involved to get together with Lt. Sylvia, and come up with a plan for next year's event, which would address the Board's concern regarding the flow and control of alcohol; and that they would be notified to appear before the Board in April of 2009, and that the Board would be looking for a written plan to be in place, which must be presented to the Board at that meeting.

**14. APPLICATION, Tr. # 214 – (Plot # 12--287)**

**MWTP, Inc. d/b/a Davy's Tiki Bar, Jeffrey Dolinsky, Manager, 1480-S East Rodney French Boulevard**, who is requesting permission to change the description of the 'Seasonal' Common Victualler All Alcoholic Beverages licensed premises to increase the size of the outdoor seating area from approximately 2,000 sq. ft. to 3,000 sq. ft. The New Description of the licensed premise shall consist of an area 3,000 sq. ft., which will be enclosed by a 4 ft. high jersey barrier, with breaks in the barrier to allow ingress and egress. The enclosed area will contain a wood 'Tiki' bar structure approximately 150 to 200 sq. ft. (approx. 19' x 8'), which will contain refrigeration, sinks, and a locked storage area to maintain alcohol, and 15 to 17 tables for dining. The enclosed area, which will be approximately 150 ft. from the existing building, will be located on the east end of the parking lot, and will remain numbered **1480-S East Rodney French Boulevard. Licensee is also requesting that the license be amended to reflect a 12:00 a.m. closing from 11:00 p.m.**

Final approval will require a 'Certificate of Inspection' from the Building Department, a 'Food Permit' from the Health Department, and a signed 'Fire & Building Certificate' with regard to Chapter 304 Fire Acts Compliance.

**Application has been advertised; Abutters have been notified.**

**15. APPLICATION,**

**MWTP, Inc. d/b/a Davy's Locker, Jeffrey Dolinsky, Manager** who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a 'Political Fundraiser (Committee to Elect Linda M. Morad)' to be held in the 'Parking Lot', located at **1480 E. Rodney French Boulevard**; and to be held on **Wednesday, July 29, 2009, from 4:00 p.m. until 10:00 p.m.**

**NOTE:** This will be a private ticketed function, restaurant will be closed, and the entire premises will close at 10:00 p.m.

- **CORRESPONDENCE,**

**--NONE RECEIVED--**

- **REVIEW POLICE DEPARTMENT INCIDENT REPORTS**

<u>NAME</u>	<u>POLICE REPORT#</u>	<u>DATE</u>	<u>VIOLATION</u>
<b><u>STINGS</u></b>			
1. <b>Freestone's</b>	#2009 – 00176/19	04/09/09	Serving Underage/Sting (1 <sup>st</sup> Offense)
2. <b>LUKOIL (56 Potomska St.)</b>	#2009 – 00176/21	04/16/09	Serving Underage/Sting (1 <sup>st</sup> Offense)
3. <b>Mee Hong Restaurant</b>	#2009 – 00176/21	04/16/09	Serving Underage/Sting (1 <sup>st</sup> Offense)
4. <b>Rose Alley Ale House</b>	#2009 – 00176/20	04/09/09	Serving Underage/Sting (1 <sup>st</sup> Offense)
5. <b>Whaling City Golf Course</b>	#2009 – 00176/22	04/17/09	Serving Underage/Sting (1 <sup>st</sup> Offense)

**Action Taken:** All have been notified to appear at 05/18/09 meeting.

- **Clubs, (Informational Only)**

A request on behalf of the Board, to have Atty. Markey contact the ABCC and inquire to what the ABCC guidelines and M.G.L. laws are with regard to several issues that have arisen lately regarding the day to day operations of non-profit 'Clubs' in the city, including volunteer bartenders, advertising, and requirements regarding financial reports and club compensation reports.

- **'COMPLAINTS RECEIVED:**

- **05/17/09 – Danny's Seafood Restaurant 574-576 North Front Street** – Phone complaint from family member, who stated that someone in her family has lost a great deal of money playing a 'Poker Machine' (Nextix) at this establishment, and asked why they were allowed to have such a machine on the premises, since it was her understanding that gambling machines were illegal.

- **Gambling Devices (Informational Only)**

A request from High Tech Promotion, LLC in combination with the Veterans of Foreign Wars, for approval to allow a sweepstakes promotional system to be installed to increase the 'VFW's ability to raise money; also, there has been another request to use such a system in an internet café type setting; and there have also been complaints filed regarding people losing money playing poker and slot type machines in liquor establishments.

Ref:

- **IRMANDADE DO DIVINO ESPIRITO SANTO DO PICO SUMMER FESTIVAL (Informational Only)**

Friday, Saturday, & Sunday, June 26<sup>th</sup>, 27<sup>th</sup>, & 28<sup>th</sup> – Notified To Appear at 05/18/09 Meeting

- **FEAST OF THE BLESSED SACRAMENT (Madeira Feast) (Informational Only)**

Thursday – Sunday, July 30<sup>th</sup>, 31<sup>st</sup>, & Aug. 1<sup>st</sup> & 2<sup>nd</sup> - Notified To Appear at 05/18/09 Meeting

- **NEXT THREE (3) MEETING DATES: May 18<sup>th</sup> June 8<sup>th</sup> (?) & June 29<sup>th</sup>**

- **MEETING ADJOURNED:**